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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600, 622, and 697

[Docket No. 181009921-8921-01]

RIN 0648-BI46

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Coastal Migratory Pelagics Resources in the Gulf of Mexico and
Atlantic Region; Amendment 31**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 31 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagics (CMP) of the Gulf of Mexico (Gulf) and Atlantic Region (Amendment 31), as prepared by the Gulf of Mexico (Gulf Council) and South Atlantic Fishery Management Councils (South Atlantic Council) (Councils). This proposed rule would remove Atlantic migratory group cobia (Atlantic cobia) from Federal management under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). At the same time, this proposed rule would implement comparable regulations under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) to

replace the existing Magnuson-Stevens Act based regulations in Atlantic Federal waters. The purpose of Amendment 31 is to facilitate improved coordination of Atlantic cobia in state and Federal waters, thereby more effectively constraining harvest and preventing overfishing and decreasing adverse socio-economic effects to fishermen.

DATES: Written comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments on the proposed temporary rule, identified by "NOAA-NMFS-2018-0114," by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal:
<http://www.regulations.gov>. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0114 click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Karla Gore, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments

received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies Amendment 31 may be obtained from the Southeast Regional Office Web site at <https://www.fisheries.noaa.gov/action/coastal-migratory-pelagics-amendment-31-management-atlantic-migratory-group-cobia>.

Amendment 31 includes an environmental assessment, a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727-551-5753, or email: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The coastal migratory pelagics fishery in the Atlantic region is managed under the FMP and includes cobia, along with king and Spanish mackerel. The FMP was prepared by the Councils and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Act.

Background

Through the CMP FMP, cobia is managed in two distinct migratory groups. The first is the Gulf migratory group of cobia that ranges both in the Gulf from Texas through Florida as well as in the Atlantic off the east coast of Florida (Gulf cobia). The second is the Atlantic migratory group of cobia that is managed from Georgia through New York (Atlantic cobia). The boundary between these two migratory groups is the Georgia-Florida state boundary. Both the Gulf and the Atlantic migratory groups of cobia were assessed through SEDAR 28 in 2013 and neither stock was determined to be overfished or experiencing overfishing.

The majority of Atlantic cobia landings occur in state waters and, despite closures in Federal water in recent years, recreational landings have exceeded the recreational annual catch limit (ACL) and the combined stock ACL. This has resulted in shortened fishing seasons, which have been ineffective at constraining harvest. Following overages of the recreational and combined stock ACLs in 2015 and 2016, Federal waters closures for recreational harvest occurred in both 2016 (June 20) and 2017 (January 24). Additionally, Federal waters were closed to commercial harvest of Atlantic cobia in 2016 (December 5) and

2017 (September 4), because the commercial ACL was projected to be reached during the fishing year.

Allowable harvest in state waters following the Federal closures varied by time and area. Georgia did not close state waters to recreational harvest of Atlantic cobia in 2016 or 2017. South Carolina allowed harvest in 2016 during May in the Southern Cobia Management Zone and closed state waters in 2017 when Federal waters closed. Most harvest of Atlantic cobia off Georgia and South Carolina occurs in Federal waters. Off North Carolina recreational harvest of Atlantic cobia closed on September 30, 2016; in 2017, harvest was allowed May 1 through August 31. Off Virginia in 2016, harvest was allowed until August 30, 2016, and in 2017, Virginia allowed harvest June 1 through September 15. Harvest in state waters during the Federal closures contributed to the overage of the recreational ACL and the combined stock ACL.

The South Atlantic Council requested that the Atlantic States Marine Fisheries Commission (ASMFC) consider complementary management measures for Atlantic cobia, as constraining harvest in Federal waters has not prevented the recreational and combined ACLs from being exceeded. The ASMFC consists of 15 Atlantic coastal states that manage and conserve their shared coastal fishery resources. The majority of ASMFC's fisheries decision-making occurs through the Interstate

Fisheries Management Program, where species management boards determine management strategies that the states implement through fishing regulations.

In May 2016, the ASMFC started developing an interstate FMP for Atlantic cobia with the purpose of improving cobia management in the Atlantic. In April 2018, the ASFMC implemented the Interstate FMP, which established state management for Atlantic cobia. Each affected state developed an implementation plan that included regulations in their state waters. In addition, the ASMFC is currently amending the Interstate FMP for Atlantic cobia to establish a mechanism for recommending future management measures to NMFS. If Amendment 31 is implemented, such management measures would need to be implemented in Federal waters through the authority and process defined in the Atlantic Coastal Act.

The management measures contained within the ASMFC's Interstate FMP are consistent with the current Federal regulations for Atlantic cobia. For the recreational sector, the management measures in the Interstate FMP include a recreational bag and possession limit of one fish per person, not to exceed six fish per vessel per day, and a minimum size limit of 36 inches (91.4 cm), fork length. For the commercial sector, the management measures in the Interstate FMP include a commercial possession limit of two cobia per person, not to exceed six fish

per vessel, and a minimum size limit of 33 inches (83.8 cm), fork length. Under the ASMFC plan, regulations in each state must match, or be more restrictive than, the Interstate FMP management measures. Georgia, South Carolina, North Carolina, and Virginia have implemented more restrictive regulations for the recreational sector in their state waters than those specified in the Interstate FMP. Those regulations include recreational bag and vessel limits, and minimum size limits, in addition to allowable fishing seasons. The Interstate FMP also provides the opportunity for states to declare *de minimis* status for their Atlantic cobia recreational sector if a state's recreational landings for 2 of the previous 3 years is less than 1 percent of the coastwide recreational landings for the same time period. States in a *de minimis* status would be required to adopt the regulations (including season) of the closest adjacent non-*de minimis* state or accept a one fish per vessel per day trip limit and a minimum size limit of 29 inches (73.7 cm), fork length. Maryland, Delaware, and New Jersey have declared a *de minimis* status.

The Magnuson-Stevens Act requires a council to prepare an FMP for each fishery under its authority that requires conservation and management. Any stocks that are predominately caught in Federal waters and are overfished or subject to overfishing, or likely to become overfished or subject to

overfishing, are considered to require conservation and management (50 CFR 600.305(c)(1)). Beyond such stocks, councils may determine that additional stocks require conservation and management. Thus, not every fishery requires Federal management and the NMFS National Standard Guidelines at 50 CFR 600.305(c) provide factors that NMFS and the councils should consider when considering removal of a stock from a FMP. This analysis is contained in Amendment 31.

Based on this analysis, the Councils and NMFS have determined that Atlantic cobia is no longer in need of conservation and management within the South Atlantic Council's jurisdiction and the stock is eligible for removal from the CMP FMP. The majority of Atlantic group cobia landings are in state waters and the stock is not overfished or undergoing overfishing. Additionally, the CMP FMP has proven ineffective at resolving the primary ongoing user conflict between the recreational fishermen from different states, and it does not currently appear to be capable of promoting a more efficient utilization of the resource. Most significantly, the harvest of Atlantic cobia is adequately managed in state waters by the ASMFC and their Interstate FMP, which was implemented in April 2018. Georgia, South Carolina, North Carolina, and Virginia have implemented more restrictive recreational regulations than those specified in the Interstate FMP. Furthermore, the Interstate FMP

requires that if a state's average annual landings over the 3-year time period are greater than their annual harvest target, then that state must adjust their recreational season length or recreational vessel limits for the following 3 years, as necessary, to prevent exceeding their harvest target in the future years. For the commercial sector, the ASMFC's Interstate FMP specified management measures for Atlantic cobia that are consistent with the current ACL and AM specified in the Federal regulations implemented pursuant to the CMP FMP.

Therefore, NMFS and the Councils have determined that management by the states, in conjunction with the ASMFC and Secretary of Commerce, will be more effective at constraining harvest and preventing overfishing; thereby, offering greater biological protection to the stock and decreasing adverse socioeconomic effects to fishermen. Further, management of Atlantic cobia by the ASMFC is expected to promote a more equitable distribution of harvest of the species among the states.

Management Measure Contained in This Proposed Rule

This proposed rule would remove Atlantic cobia from Federal management under the Magnuson-Stevens Act. At the same time, it would implement comparable regulations, in Federal waters, under the Atlantic Coastal Act.

Current commercial management measures for Atlantic cobia include a minimum size limit of 33 inches (83.8 cm), fork length and a commercial trip limit of two fish per person per day, not to exceed six fish per vessel per day. Federal regulations for recreational harvest of Atlantic cobia in Federal waters include a minimum size limit of 36 inches (91.4 cm), fork length and a bag and possession of one fish per person per day, not to exceed six fish per vessel per day.

Under the authority of the Atlantic Coastal Act, this proposed rule would implement these same minimum size limits, recreational bag and possession limits, and commercial trip limits in Federal waters. Additionally, this proposed rule would implement regulations consistent with current CMP FMP regulations for the fishing year, general prohibitions, authorized gear, and landing fish intact provisions specific to Atlantic cobia.

The current Atlantic cobia commercial ACL is 50,000 lb (22,680 kg) and the recreational ACL is 620,000 lb (281,227 kg). The proposed removal of Atlantic cobia from Federal management under the Magnuson-Stevens Act would remove these sector ACLs. Under this proposed rule, a commercial quota of 50,000 lb (22,280 kg), would be implemented consistent with the current commercial ACL. The current commercial accountability measure (AM) requires that if commercial landings reach or are projected

to reach the ACL, then commercial harvest will be prohibited for the remainder of the fishing year. This proposed rule would implement commercial quota closure provisions through the Atlantic Coastal Act to prohibit commercial harvest once the commercial quota is reached or projected to be reached.

The ASMFC's Interstate FMP has specified a recreational harvest limit (RHL) of 613,800 lb (278,415 kg) in state and Federal waters and state-by-state recreational quota shares (harvest targets) of the coastwide RHL. During the development of the Interstate FMP, one percent of the amount of the recreational allocation of the current Federal ACL (initially 6,200 lb (2,812 kg)) was set aside to account for harvests in *de minimis* states (Maryland, Delaware, and New Jersey). The harvest targets for each state, in both state and Federal waters, are 58,311 lb (26,449 kg) for Georgia, 74,885 lb (33,967 kg) for South Carolina, 236,316 lb (107,191 kg) for North Carolina and 244,292 lb (110,809 kg) for Virginia. Percentage allocations are based on states' percentages of the coastwide historical landings in numbers of fish, derived as 50 percent of the 10-year average landings from 2006-2015 and 50 percent of the 5-year average landings from 2011-2015.

The proposed removal of Atlantic cobia from Federal management under the Magnuson-Stevens Act would remove the recreational sector AM for Atlantic cobia. The recreational AM

requires that both the recreational ACL and the stock ACL are exceeded in a fishing year then in the following fishing year, recreational landings will be monitored for a persistence in increased landings, and, if necessary, the recreational vessel limit will be reduced to no less than 2 fish per vessel to ensure recreational landings achieve the recreational annual catch target, but do not exceed the recreational ACL in that fishing year. Additionally, if the reduction in the recreational vessel limit is determined to be insufficient to ensure that recreational landings will not exceed the recreational ACL, then the length of the recreational fishing season will also be reduced.

In place of the current recreational AM, state-defined regulations and seasons implemented consistent with the ASMFC's Interstate FMP are designed to keep harvest within the state harvest targets. If a state's average annual landings over the 3-year time period are greater than their annual harvest target, then the Interstate FMP requires the state to adjust their recreational season length or recreational vessel limits for the following 3 years, as necessary, to prevent exceeding their harvest target in the future years.

If Amendment 31 is subsequently approved and implemented, Atlantic cobia would be managed under the ASMFC's Interstate FMP in state waters and through Atlantic Coastal Act regulations in

Federal waters. This will ensure that Atlantic cobia continues to be managed in Federal waters and that there would be no lapse in management of the stock. These regulations would be expected to be implemented concurrently with the removal of Atlantic cobia from the CMP FMP and serve essentially the same function as the current CMP FMP based management measures. It is expected that the Interstate FMP and Atlantic Coastal Act would provide adequate management of Atlantic cobia in state and Federal waters and ensure that the stock has sufficient conservation and management measures in place.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 31, the FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment. Additionally, this proposed rule is compatible with the effective implementation of the ASMFC's Interstate Fishery management Plan for Atlantic Migratory Group Cobia.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. NMFS expects this proposed rule would reduce regulatory complexity and administrative costs, as well as provide economic benefits to recreational anglers through expanded harvest opportunities in

Federal waters and a more stable recreational fishing season for Atlantic cobia.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination follows.

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble. The Magnuson-Stevens Act and the Atlantic Coastal Act provide the statutory basis for this proposed rule.

This proposed rule would apply to all commercial vessels, charter vessels and headboats (for-hire vessels), and recreational anglers that fish for or harvest Atlantic cobia in Federal waters of the Atlantic. Because no Federal permit is required for the commercial harvest or sale of Atlantic cobia, the distinction between commercial and recreational fishing activity for the purposes of this proposed rule is whether the fish are sold. Individuals that harvest Atlantic cobia under the recreational bag limit in Federal waters and who do not subsequently sell these fish are considered to be recreational anglers. Recreational anglers who would be directly affected by

this proposed rule are not considered small entities under the RFA, and are, therefore, outside the scope of this analysis. 5 U.S.C. 603. Small entities include "small businesses," "small organizations," and "small governmental jurisdictions." 5 U.S.C. 601(6) and 601(3)-(5). Recreational anglers are not businesses, organizations, or governmental jurisdictions. In summary, only the impacts on businesses that engage in commercial fishing (*i.e.* those that sell their harvests of Atlantic cobia) will be discussed.

For-hire vessels sell fishing services to recreational anglers. The proposed changes to the CMP FMP would not directly alter the services sold by these for-hire vessels. Any change in anglers' demand for these fishing services (and associated economic effects) as a result of the proposed action would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of this proposed rule. Indirect effects are not germane to the RFA; however, because for-hire captains and crew are allowed to harvest and sell Atlantic cobia under the possession limit when the commercial season is open, for-hire businesses, or employees thereof, could be directly affected by this proposed rule as well.

Data from 2012 through 2016 were used in Amendment 31 and these data provided the basis for the Councils' decisions. Although no Federal permit is required for the commercial

harvest and sale of Atlantic cobia, vessels with other Federal commercial permits are required to report their catches for all species harvested, including Atlantic cobia. On average from 2012 through 2016, there were only 100 commercial vessels with Federal permits that reported landings of Atlantic cobia in the South Atlantic (excluding east Florida, which is outside of the Atlantic cobia stock boundary). Their average annual vessel-level revenue from all species for 2012 through 2016 was approximately \$62,000 (2017 dollars) and Atlantic cobia accounted for less than 1 percent of this revenue. The maximum annual revenue from all species reported by a single one of these vessels from 2012 through 2016 was approximately \$300,000 (2017 dollars). In the Mid-Atlantic, there were 28 vessels, on average, that harvested Atlantic cobia from 2012 through 2016. Complete revenue profiles for these vessels are not available; however, on average, each vessel earned approximately \$2,000 (2017 dollars) per year from the sale of Atlantic cobia. Finally, it is unknown how many non-federally permitted vessels may have fished commercially for Atlantic cobia in Federal waters during this time.

As of June 15, 2018, there were 1,757 valid Federal South Atlantic charter/headboat CMP permits. Although the for-hire permit application collects information on the primary method of operation, the resultant permit itself does not identify the

permitted vessel as either a headboat or a charter vessel. Operation as either a headboat or charter vessel is not restricted by permitting regulations and vessels may operate in both capacities. However, only selected headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fisheries Science Center that the vessel primarily operates as a headboat. As of June 11, 2018, 64 South Atlantic headboats were registered in the SRHS. As a result, of the 1,757 vessels with South Atlantic charter/headboat CMP permits, up to 64 may primarily operate as headboats and the remainder as charter vessels. The average charter vessel is estimated to receive approximately \$120,000 (2017 dollars) in annual revenue. The average headboat is estimated to receive approximately \$213,000 (2017 dollars) in annual revenue.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated

operations worldwide. All of the commercial vessels directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.5 million (NAICS code 487210, for-hire businesses) for all its affiliated operations worldwide. All for-hire businesses expected to be directly affected by this proposed rule are believed to be small business entities. NMFS has not identified any other small entities that would be directly affected by this proposed rule.

This proposed rule would remove Atlantic cobia and associated regulatory measures from the CMP FMP. The ASMFC would manage Atlantic cobia in state waters and NMFS would promulgate regulations under the Atlantic Coastal Act to replace the existing Magnuson-Stevens Act based regulations in Federal waters. This would ensure that Atlantic cobia continues to be managed in Federal waters and there is no lapse in management of the stock. It is expected that commercial management measures for Atlantic cobia implemented in state waters through the ASMFC

Interstate FMP, and in Federal waters through the Atlantic Coastal Act would remain consistent with those currently in place, thereby, not generating any direct economic effects on any small entities.

The information provided above supports a determination that this proposed rule would not have a significant adverse economic impact on a substantial number of small entities. Because this rule, if implemented, is not expected to have a significant adverse economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, the Paperwork Reduction Act does not apply to this proposed rule.

List of Subjects in 50 CFR Parts 600, 622 and 697

Atlantic, Cobia, Fisheries, Fishing, South Atlantic.

Dated: November 1, 2018.

Samuel D. Rauch, III,

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 600, 622, and 697 are proposed to be amended as follows:

PART 600--MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 et seq.

2. In § 600.725, in paragraph (v), in the table under heading "III. South Atlantic Fishery Management Council," remove and reserve entry 8.C and add entry 25 to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) * * *

Fishery

Authorized
gear types

* * * * *

III. South Atlantic Fishery Management Council

* * * * *

25. Atlantic Migratory Group Cobia (Non-FMP)

A. Commercial Fishery. A. Longline, handline, rod and
reel, bandit gear, spear.

B. Recreational Fishery. B. Bandit gear, rod and reel,
handline, spear.

* * * * *

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH
ATLANTIC**

3. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 622.1, amend **Table 1 to §622.1—FMPs Implemented Under Part 622** by revising the entry for "FMP for Coastal Migratory Pelagic Resources", and adding footnote 9 to read as follows:

§ 622.1 Purpose and scope.

* * * * *

Table 1 to § 622.1--FMPs Implemented Under Part 622

FMP title	Responsible fishery management council(s)	Geographical area
FMP for Coastal Migratory Pelagic Resources	GMFMC/SAFMC	Gulf ^{1,9} , Mid-Atlantic ^{1,9} , South Atlantic ^{1,9} .
* * * * *		

¹ Regulated area includes adjoining state waters for purposes of data collection and quota monitoring.

* * * * *

⁹ Cobia is managed by the FMP in the Gulf EEZ and in the South Atlantic EEZ south of a line extending due east from the Florida/Georgia border.

* * * * *

5. In § 622.375, revise paragraph (a) (2) to read as follows:

§ 622.375 Authorized and unauthorized gear.

* * * * *

(a) * * *

(2) *Cobia, Gulf migratory group.* Subject to the prohibitions on gear/methods specified in § 622.9, the following

are the only fishing gears that may be used in the Gulf EEZ, and in the South Atlantic EEZ south of a line extending due east from the Florida/Georgia border for cobia--all gear except drift gillnet and long gillnet.

* * * * *

6. In § 622.380, revise paragraph (a)(1) and remove and reserve paragraph (a)(2).

§ 622.380 Size limits.

* * * * *

(a) * * *

(1) In the Gulf and in the South Atlantic EEZ south of a line extending due east from the Florida/Georgia border—33 inches (83.8 cm), fork length.

* * * * *

7. In § 622.381, revise the first sentence of paragraph (a) to read as follows:

§ 622.381 Landing fish intact.

(a) Cobia in or from the Gulf and in the South Atlantic EEZ south of a line extending due east from the Florida/Georgia border, and king mackerel and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel and Spanish mackerel in paragraph (b) of this section, must be maintained with head and fins intact. Such fish

may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. * * *

* * * * *

8. In § 622.382, revise the heading for paragraph (a) and remove paragraph (a) (1) (vi) to read as follows:

§ 622.382 Bag and possession limits.

* * * * *

(a) *King mackerel and Spanish mackerel*--* * *

* * * * *

§ 622.384 [Amended]

9. In § 622.384, remove and reserve paragraph (d) (2).

§ 622.385 [Amended]

10. In § 622.385, remove paragraph (c).

§ 622.388 [Amended]

11. § 622.388, remove paragraph (f).

12. Revise Figure 3 of Appendix G to Part 622 to read as follows:

Appendix G to Part 622—Coastal Migratory Pelagics Zone

Illustrations

* * * * *

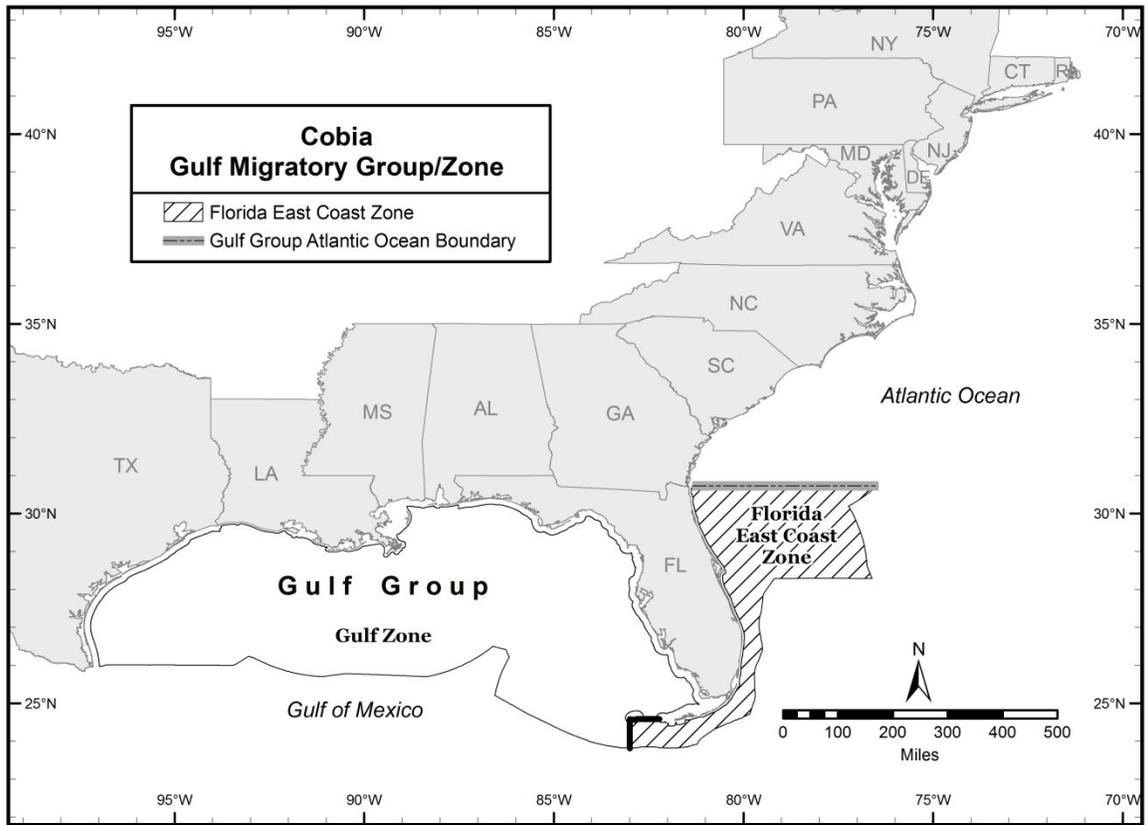


Figure 3 of Appendix G to Part 622--Cobia

PART 697-ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

13. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

14. In § 697.2(a), add the definition for "Atlantic migratory group cobia" in alphabetical order to read as follows:

§ 697.2 Definitions.

(a) * * *

* * * * *

Atlantic migratory group cobia, means *Rachycentron canadum*, a whole fish or a part thereof, bounded by a line extending from the intersection point of New York, Connecticut, and Rhode Island (41°18'16.249" N. lat. and 71°54'28.477" W. long) southeast to 37°22'32.75" N. lat. and the intersection point with the outward boundary of the EEZ and south to a line extending due east of the Florida/Georgia border (30°42'45.6" N. lat.).

* * * * *

15. In § 697.7, add paragraph (g) to read as follows:

§ 697.7 Prohibitions.

* * * * *

(g) *Atlantic migratory group cobia*. In addition to the

prohibitions set forth in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Use or possess prohibited gear or methods or possess fish in association with possession or use of prohibited gear, as specified in this part.

(2) Fish in violation of the prohibitions, restrictions, and requirements applicable to seasonal and/or area closures, including but not limited to: Prohibition of all fishing, gear restrictions, restrictions on take or retention of fish, fish release requirements, and restrictions on use of an anchor or grapple, as specified in this part or as may be specified under this part.

(3) Possess undersized fish, fail to release undersized fish, or sell or purchase undersized fish, as specified in this part.

(4) Fail to maintain a fish intact through offloading ashore, as specified in this part.

(5) Exceed a bag or possession limit, as specified in this part.

(6) Fail to comply with the species-specific limitations, as specified in this part.

(7) Fail to comply with the restrictions that apply after closure of a fishery, sector, or component of a fishery, as specified in this part.

(8) Possess on board a vessel or land, purchase, or sell fish in excess of the commercial trip limits, as specified in this part.

(9) Fail to comply with the restrictions on sale/purchase, as specified in this part.

(10) Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in this part.

(11) Fail to comply with any other requirement or restriction specified in this part or violate any provision(s) in this part.

16. Add § 697.28 to 50 CFR part 697, Subpart B, to read as follows:

§ 697.28 Atlantic migratory group cobia.

(a) *Fishing year.* The fishing year for Atlantic migratory cobia is January 1 through December 31.

(b) *Authorized gear.* Subject to the prohibitions on gear/methods in § 697.7, the following are the only fishing gears that may be used for cobia in the EEZ of the Atlantic migratory group--automatic reel, bandit gear, handline, rod and reel, pelagic longline, and spear (including powerheads).

(c) *Size limits.* All size limits in this section are minimum size limits. Atlantic migratory group cobia not in compliance with its size limit, as specified in this section, in or from

the EEZ, may not be possessed, sold, or purchased. A fish not in compliance with its size limit must be released immediately with a minimum of harm. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on board are in compliance with the size limits specified in this section. If a size limit in paragraph (c) (1) or (2) of this section differs from a size limit from an Atlantic state(s), then any vessel operator in the EEZ must comply with the more restrictive requirement or measure when in the waters off that state.

(1) 33 inches (83.8), fork length, for cobia that are sold (commercial sector).

(2) 36 inches (91.4 cm), fork length, for cobia that are not sold (recreational sector).

(d) *Landing fish intact.* Atlantic migratory group cobia in the EEZ, must be maintained with head and fins intact. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.

(e) *Bag and possession limits.* If a bag and/or possession limit in paragraph (e) (1) or (2) of this section differs from a bag and/or possession limit from an Atlantic state(s), then any

vessel operator in the EEZ must comply with the more restrictive requirement or measure when in the waters off that state.

(1) Atlantic migratory group cobia that are not sold (recreational sector)-1, not to exceed 6 fish per vessel per day.

(2) *Possession limits.* A person who is on a trip that spans more than 24 hours may possess no more than two daily bag limits, provided such trip is on a vessel that is operating as a charter vessel or headboat, the vessel has two licensed operators aboard, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

(f) *Quotas.* All weights are in round and eviscerated weight combined.

(1) The following quota applies to persons who fish for cobia and sell their catch--50,000 lb (22,680 kg). If the sum of the cobia landings that are sold, as estimated by the SRD, reach or are projected to reach the quota specified in this paragraph (f)(1) of this section, the AA will file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year.

(2) *Restrictions applicable after a quota closure.* (i) If the recreational sector for Atlantic migratory group cobia is open, the bag and possession specified in paragraph (e) of this

section apply to all harvest or possession in or from the EEZ. If the recreational sector is closed, all applicable harvest or possession in or from the EEZ is prohibited.

(ii) The sale or purchase of Atlantic migratory group cobia in or from the EEZ during a closure is prohibited. The prohibition on the sale or purchase during a closure does not apply to Atlantic migratory group cobia that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

(g) *Commercial trip limits.* Commercial trip limits are limits on the amount of Atlantic migratory group cobia that may be possessed on board or landed, purchased, or sold from a vessel per day. A person who fishes in the EEZ may not combine a trip limit specified in this section with any trip or possession limit applicable to state waters. Atlantic migratory group cobia specified in this section taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and such species may not be transferred in the EEZ. Commercial trip limits apply as follows--Until the commercial quota specified in paragraph (f) (1) of this section is reached, 2 fish per person, not to exceed 6 fish per vessel.

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